

Office Action Summary

Application No.

10/606,086

Applicant(s)

DUBIN ET AL.

Examiner

Michael Misiasek

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 16, 17 and 19-35 is/are pending in the application.
- 4a) Of the above claim(s) 21-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14, 16, 17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/02)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 20090301
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/2008 has been entered.

Prosecution Status

Applicant's amendments filed 12/11/2008 have been received and reviewed. The status of the claims is as follows:

Claims 14, 16, 17, 19, and 20-35 are pending. Claims 21-35 are withdrawn herein from consideration.

Election/Restrictions

Newly submitted claims 21-35 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The inventions are distinct, each from the other because of the following reasons:

The inventions in claims 14, 16, 17, 19, and 20 and in claims 21-35 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombination in claims 14, 16, 17, 19, and 20 has separate utility such as broker affiliates conducting transactions with customers involving goods and/or services available from other broker affiliates via said distributed network pursuant to transaction conditions via a web sharing function of the distributed network. The subcombination in claims 21-35 has separate utility such as sending one or more groups of tickets available for sale for posting on websites in accordance with posting conditions specified in a rules set. See MPEP § 806.05(d). The Examiner notes that there are additional separate utilities, and those detailed above are merely two examples of such.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-35 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Objections

Claim 14 is objected to because of the following informalities: There appears to be a typographical error in the claim. The limitation: "said distributed network handling transactions with respect to goods and/or services and for recording, reporting and storing data with respect to said transactions" should read: "said distributed network handling transactions with respect to goods and/or services and [[for]] recording, reporting and storing data with respect to said transactions"

Appropriate correction is required.

Claims 16, 17, 19, and 20 are objected to for their dependence on claim 14.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claims 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 14 recites the limitation "said affiliate database information" on page 2 of the response dated 12/11/2008. There is insufficient antecedent basis for this limitation in the claim. The Examiner suggests amending the limitation to read "said information stored in said affiliate databases".

Claim 14 further recites "said goods and/or services" in the two limitations beginning "conducting..." on page 3 of the response. There are several instances of goods and/or services in the claims prior to those recitations. It is unclear to which instances each of those recitations is referring. Appropriate correction is required.

Claim 14 still further recites "providing a web page and linking same to said affiliate computers" on page 3 of the response. The phrase "and linking same" is particularly unclear. Appropriate correction is required to clarify the scope and meaning of the phrase.

Claims 16, 17, 19, and 20 are rejected at least for their dependence on claim 14.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 14, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill in view of Harmon, Peterson et al. (US 20020082956 A1, hereinafter Peterson) and Satchell.

Regarding Claim 14

O'Neill discloses a method of managing transactions with multiple affiliates, comprising:

- providing a central exchange including an exchange server and an exchange database connected thereto (at least figure 2: trading platform 18)
- storing in said exchange database information corresponding to goods and/or services available for sale and/or requested to purchase by one or more affiliates (at least column 7, lines 47-55: Memory stores inventory data)
- maintaining a rules set with said central exchange (at least column 22, lines 1-28: profile data including preferences and terms)
- said affiliates controlling said rules set (at least column 22, lines 1-28)
- connecting said exchange server to the affiliate computers via a distributed network (at least abstract)

- providing Internet (world wide web) access to said exchange server (at least column 8, lines 1-13)
- providing a web-based bulletin board and access thereto by said affiliates (at least figure 4: Members forum)
- posting to said web-based bulletin board information concerning goods and/or services available for purchase and/or requested to purchase through the central exchange (at least figure 4: market activity information provided in forum)
- preprogramming said central exchange with said transaction conditions applicable to said broker affiliates for conducting transactions via said distributed network (at least column 22, lines 1-28: trading preferences maintained for trading partners)
- conducting transactions with respect to said goods and/or services via said distributed network according to said preprogrammed conditions (at least at least column 2, lines 41-63: transactions conducted between trading partners through trading platform)
- reporting data with respect to transactions across said distributed network to said central exchange (at least column 3, lines 50-65)
- said distributed network handling transactions with respect to goods and/or services and for recording, reporting and storing data with respect to said transactions (at least column 2, lines 41-63; column 3, lines 50-65: transactions processed over network through trading platform and terms of transactions stored in trading platform)

- sending a purchase request from a customer received by a selling broker affiliate to said exchange server via a web service (at least column 3, lines 6-20: market order sent)
- said exchange server parsing and building request documents (at least column 3, lines 6-20: market order built)
- said exchange server sending said request back to said selling affiliate (at least column 3, lines 31-49: market order returned to trading partner for possible future use or editing)
- said originating affiliate sending goods and/or services information to said exchange server concerning said request (at least column 3, lines 31-49: product information for market order specified)
- said exchange server sending selling information concerning said goods and/or services to said customer (at least column 13, lines 32-44: platform communicates product/order information to buying client)
- said customer confirming purchase to said exchange service (at least column 15, lines 1-21: buyer authorizes transfer of funds)

O'Neill does not explicitly disclose:

- affiliates individually identifying goods and/or services to be shown on their respective websites and the websites of other affiliates
- storing in said affiliate databases information corresponding to goods and/or services
- uploading to said central database said affiliate information corresponding to goods and/or services available for transactions via the distributed network
- conducting real-time transactions involving said goods and/or services in said exchange database via said distributed network
- said broker affiliates conducting transactions with customers involving goods and/or services available from other broker affiliates via said distributed network pursuant to said transaction conditions via a web inventory sharing function of the distributed network
- providing a web page and linking same to said affiliate computer
- providing a special order system enabling affiliates to sell non-inventory goods and/or services not in their possession
- distributing via the distributed network purchase requests for said non-inventory goods and/or services.
- said exchange service sending a transaction confirmation to said buying affiliate;
- said buying affiliate sending a transaction confirmation to said exchange service

Harmon teaches that it is known to include sellers identifying goods and/or service to be shown on websites (at least paragraphs [0056] and [0061]: products to be displayed on web page identified) providing a web page and link to an affiliate computer (at least paragraph [0056]: web page provided), and a buyer confirming an order and receiving confirmation of the order (at least figure 8 and paragraph [0011]: buyer confirms bid and exchange sends buyer order confirmation). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method, as taught by O'Neill, with the posting and ordering procedure, as taught by Harmon, since such a modification would have provided increased convenience in buying and selling event tickets by ensuring that buyers and sellers only have to deal with one entity, a central exchange (at least paragraph [0010] of Harmon).

Peterson teaches that it is known to include storing in said affiliate databases information corresponding to goods and/or services (at least paragraph [0030]), uploading to said central database said affiliate information corresponding to goods and/or services available for transactions via the distributed network (at least paragraphs [0031]-[0032]: inventory sharing), and conducting transactions with customers involving goods and/or services available from other broker affiliates via said distributed network pursuant to transaction conditions via a web inventory sharing function of the distributed network (at least paragraph [0032]: transferring of items) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method, as taught by O'Neill, with the features taught by Peterson, since such a modification would have only united elements of the prior art references, with no change in their respective functions and which yield predictable results

Satchell teaches that it is known to include providing for ordering of non-inventory goods and distributing purchase orders for these goods (at least paragraph [0052]: out-of-stock products ordered and shipped) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method, as taught by O'Neill, with the non-inventory goods ordering, as taught by Satchell, since such a modification would have provided a more efficient commerce system through immediate shipping (at least paragraph [0052] of Satchell).

Regarding Claims 17, 19, 20

O'Neill discloses the claimed invention except for:

- enabling affiliate control of credit card purchasing of goods and/or services from other affiliates
- inputting to said central exchange credit card information from said affiliates for use in connection with affiliate-to-affiliate transactions
- wherein said goods and/or services comprise tickets to entertainment and/or sports events
- wherein said tickets are specified for purchase by a purchasing affiliate by event, venue, date and seating section

Harmon teaches that is known to include enabling credit card purchasing of goods between affiliates and entering credit card information to a central exchange (at least paragraph [0037]: credit card charged by exchange for member-to-member transaction) and to sell sports tickets purchased by event, venue, date, and seating section (at least paragraph [0063]) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method, as taught by O'Neill, with the credit card transactions between affiliates and sports tickets, as taught by Harmon, since such a modification would have provided improved record keeping of ticket transactions through an accurate audit trail (at least paragraph [0037] of Harmon).

2. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill in view of Harmon, Peterson and Satchell as applied to claim 14 above, and further in view of Anderson.

O'Neill, Harmon, Peterson, and Satchell disclose the claimed invention except for:

- enabling affiliate control of splitting of grouped goods and/or services according to predetermined procedures;
- offering such grouped goods and/or services according to such predetermined procedures.

Anderson teaches that it is known to include procedures for splitting grouped products and offering the products (at least abstract: unbundling of products) in a similar environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the method, as taught by O'Neill, Harmon, Peterson and Satchell with the splitting of grouped products, as taught by Anderson, since such a modification would have provided additional versatility in the ordering process by offering products in a different format than originally presented (at least paragraph [0009] of Anderson).

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Misiaszek whose telephone number is (571)272-6961. The examiner can normally be reached on 9:00 AM - 5:30 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/2/2009

